

Assembly Bill No. 1492

Passed the Assembly September 8, 2005

Chief Clerk of the Assembly

Passed the Senate September 7, 2005

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Sections 81383 and 81384 to the Education Code, relating to community college district property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1492, Evans. Community college districts: property: sale or lease.

Existing law authorizes the governing board of any community college district to sell or lease, under specified conditions, real property, as defined, that the community college district owns. Existing law also requires state and local agencies, including community college districts, to comply with specified requirements prior to the disposal of surplus land.

This bill would exclude from provisions governing the construction of community college facilities and governing the disposal of property owned by community college districts certain transactions involving the sale or lease of property owned by a community college district if the proceeds of these transactions are expended for capital outlay purposes relating to qualified community college facilities, as defined, and if the district complies with other specified conditions.

The people of the State of California do enact as follows:

SECTION 1. Section 81383 is added to the Education Code, to read:

81383. Notwithstanding Section 81360, the sale by the governing board of any community college district of any real property belonging to the community college district, or the lease by that governing board, for a term not exceeding 99 years, of any real property, together with any personal property located thereon, belonging to the community college district shall not be subject to Part 49 (commencing with Section 81000) or to Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, if all of the following conditions are met:

(a) The property is sold or leased to another local governmental agency, or to a nonprofit corporation that is

organized for the purpose of assisting one or more local governmental agencies in obtaining financing for a qualified community college facility.

(b) (1) In the case of the sale of community college district property pursuant to this section, the community college district, as part of that same sale transaction, simultaneously repurchases the same property that is the subject of the transaction.

(2) In the case of the lease of community college district property pursuant to this section, the community college district, as part of that same lease transaction, simultaneously leases back, for a term that is not substantially less than the term of that lease, the same property that is the subject of the transaction.

(c) The financing proceeds obtained by the community college district pursuant to any transaction described in this section are expended solely for capital outlay purposes relating to a qualified community college facility, including the acquisition of real property for intended use as a site for a qualified community college facility and the design, planning, acquisition, construction, reconstruction, and renovation of qualified community college facilities.

(d) For purposes of this section and Section 81384, the term “qualified community college facility” means real and personal property, improvements, and related facilities that are determined in a resolution of the governing board of the community college district to satisfy each of the following requirements:

(1) The facilities will (A) assist the community college district in reducing energy and resource consumption while creating a safer and healthier learning environment and (B) operate as energy and resource efficient buildings by taking cost-effective measures similar to those described in the Green Building Action Plan promulgated by the Governor for facilities owned, funded or leased by the state.

(2) The facilities are affordable for the community college district as set forth in estimated annual summary budgets of the community college district that include the estimated costs of financing the facilities during the estimated duration of the financing demonstrating that the reasonably anticipated expenditures during each fiscal year shall not exceed the reasonably anticipated revenues for that fiscal year.

SEC. 2. Section 81384 is added to the Education Code, to read:

81384. When a community college district enters into a sale or lease of community college district property pursuant to Section 81383, the community college district shall, as a part of the sale contract or lease, authorize the chancellor and Controller to withhold from its annual apportionment the amount of funds necessary to satisfy its annual payment obligation under the sale contract or lease. The agreement shall include authorization to withhold this amount and specify the amount to be withheld. The authorization shall have precedence over other expenditure obligations of the community college district. The chancellor, directly or through his or her agent, shall certify the amounts, by district, to the Controller. The Controller shall withhold the amount so reported for each community college district and shall, acting on behalf of each community college district, transfer the appropriate amount from Section B of the State School Fund to or upon the order of the issuer of bonds (or the lender on short-term loans) for the purpose of payment of the debt service obligation for the bonds (or short-term loan) sold for capital outlay purposes relating to a qualified community college facility pursuant to Section 81383. Only the annual apportionments of those community college districts that have authorized the chancellor and the Controller to act pursuant to this section shall be affected by this section, and the annual apportionments of all other community college districts in the state shall remain unchanged. For purposes of this section, short-term loans shall include, but are not limited to, loans made by the Pooled Money Investment Board pursuant to Section 16312 of the Government Code in connection with the financing of a qualified community college facility.

Approved _____, 2005

Governor